

REMARKS

Claims 2, 3, 5-23, 25 and 26 are currently pending in the application. Claims 2, 3, 5-7, 10, 13, 15, 16 and 26 are herein amended. Claim 24 is herein canceled. No new matter is added. In light of the following remarks and aforementioned amendments, favorable consideration is earnestly solicited.

Objection to Specification:

The specification was objected to for not describing or explaining a “single hull unit.” Applicant has herein amended the specification to recite and explain a hull unit. As such, applicant respectfully submits that the objection is moot and asks that the objection be withdrawn. No new matter has been added.

Objections to the Claims:

Claim 16 was objected to for being unclear. Applicant has amended claim 16 as the examiner suggested, to further clarify the claim. As such, applicant asks that the objection be withdrawn.

On the Merits

Claim Rejections - 35 U.S.C. § 102(b)

Claims 2, 3, 5, 7, 11, 12, 15 and 22-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Poole* (US Patent 3,514,962).

Independent Claims 2, 5 and 15:

Applicant has amended independent claims 2, 5 and 15 to remove the feature of the slot being open at its top. Specifically, claims 2 and 5 now recite:

...wherein said slot is closed at its top....

As can be seen from FIG. 3 of *Poole*, its alleged slot 15 is open at its top. As such, *Poole* does not disclose or fairly suggest the claim.

Independent Claim 15 now recites:

...wherein said slot is fully or partly open at at least a port side or a starboard side of said single hull unit, or at a bottom of said slot....

Poole does not disclose or fairly suggest any of the above recited features of independent claim 15.

As such, applicant respectfully asks that the rejection to claims 2, 3, 5, 7, 11, 12, 15, 22, 23, 25 and 26 be withdrawn.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 2, 3, 5, 6, 9, 11-16, 22, 24 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fletcher* (US Patent 3,929,644).

The office action again cites *Fletcher* to reject the claims. In particular, independent claims 2, 5, 8 and 15 each recite a single hull unit having a slot. In *Fletcher*, as discussed in applicant's previous response of December 29, 2008, it is self described as a "catamaran-type hull." (Please see abstract of *Fletcher*.) A catamaran-type hull does not disclose a single hull unit as recited in the independent claims. A catamaran-type hull, is by definition a two (2) hull craft. *Fletcher* does not disclose or fairly suggest a slot extending through either of its two hulls.

Further, the office action suggests that venturi flow passage 19, of *Fletcher*, is a slot because it freely communicates with air and water. That is, the buoyancy of the vessel can be adjusted allowing air to come into contact with the upper part of the alleged slot 19.¹ However, if this was the case, then it is even more clear that the vessel was operating as a catamaran.

¹ The examiner acknowledges that during normal operating use, the entire space 19 would be underwater.

That is, each hull would be floating in the water with the deck of the vessel raised out of the water. As such, *Fletcher* does not disclose a single hull unit comprising the recited features of the independent claims.

As such, applicant respectfully asks that the rejection to claims 2, 3, 5, 6, 9, 11-16, 22, 24 and 26 be withdrawn.

Claims 2, 3, 5, 6, 8, 11, 12, 15, 22, 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Klose* (US 3,291,088).

As indicated above with respect to independent claims 2 and 5, the feature of having a slot with an open top has been removed. As such, *Klose* does not disclose or fairly suggest claims 1 and 5, as *Klose* discloses a daggerboard trunk with an open top. Please see applicant's remarks above with respect to the rejection under *Poole*.

Regarding independent claim 8, it recites in part:

[the] vertical slot extending approximately the length of said single hull unit....

As shown in FIG. 1 of *Klose*, the daggerboard trunk does not extend approximately the length of the single hull unit, as recited in claim 8. That is, the daggerboard trunk of *Klose*

appears to extend less than 10% of the length of the hull shown in *Klose*. As such, *Klose* does not disclose or fairly suggest the claimed feature.

Regarding independent claim 15, it recites in part:

wherein said slot extends transversely through said single hull unit....

Klose does not disclose or fairly suggest this feature. Specifically, as shown in FIG. 1 of *Klose*, the daggerboard trunk 64 (which the office action contends discloses a slot), extends in a lengthwise direction with respect to the hull, not in a transverse direction as recited in claim 15.

Further, regarding each of the independent claims, the office action does not consider applicant's arguments presented on December 29, 2008 to be persuasive. That is, the office action suggests that *Klose* discloses a hull with two substantially buoyant compartments. The examiner contends that if the daggerboard 76 was removed from *Klose*, then air and water would freely communicate with the daggerboard trunk 64.

However, if the daggerboard 76 was removed (and a plug was not used), the boat as described in *Klose* would at a minimum, be less seaworthy, and could potentially sink.² That is, *Klose* appears to show an opening running through the hull to the keel; i.e. daggerboard trunk 64.

² If the top of the opening in *Klose* was below or close to the waterline, then seaworthiness could be compromised.

Thus, if a daggerboard 76 or a plug is not in place in *Klose*, water would appear to possibly flow into the boat, thus causing it to lose some measure of seaworthiness.

Klose recites in column 7, lines 4 and 5:

This plug is used whenever the daggerboard is not in place.

As such, the modification the examiner applies to *Klose* would render the invention unsatisfactory for its intended purpose.

According to the court:

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP 2143.01(V).

As such, it would not be obvious to modify *Klose* in the suggest fashion because it would render the invention unsatisfactory for its intended purpose.

Furthermore, *Klose* itself directly teaches away from the modification the office action suggests, presumably for the reasons mentioned above.

As such, applicant respectfully asks that the rejection to claims 2, 3, 5, 6, 8, 11, 12, 15, 22, 25 and 26 be withdrawn.

Claims 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fletcher* (US 3,929,644), in view of *Thiger et al.* (US 6,250,240 B1).

As claims 19-21 depend on the previously discussed independent claims, the arguments presented above regarding the independent claims also apply to claims 19-21.

In view of the above, applicant respectfully submits that his application is allowable and ask that the rejection under 35 U.S.C. §112 and the rejections under 35 U.S.C. §§ 102 and 103 be withdrawn. Applicant respectfully submits that this case is in condition for allowance and allowance is respectfully solicited.

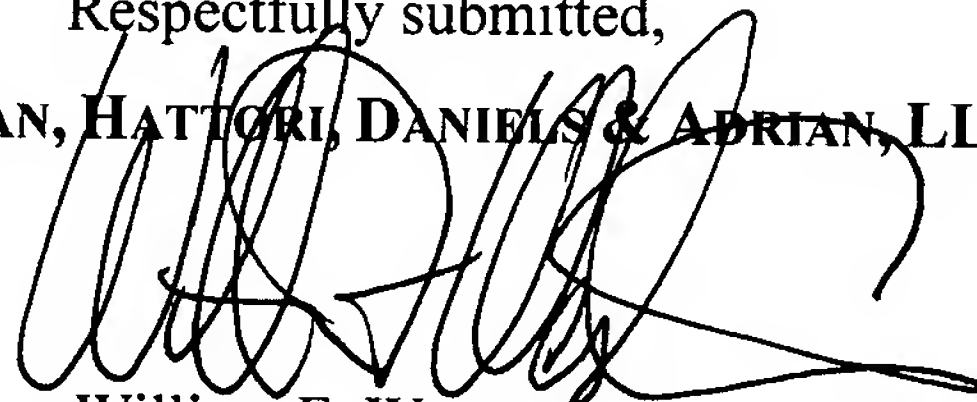
If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local exchange number listed below.

Application No.: 10/565,798
Art Unit: 3617

Amendment under 37 C.F.R. §1.111
Attorney Docket No.: 052895

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to be 'W. F. Westerman', written over the firm name.

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